

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ELLEN EWING

Plaintiff,

v.

THE CITY OF PHILADELPHIA, et al.,

Defendants.

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CIVIL ACTION
NO. 20-3170

ORDER

AND NOW, this 30th day of December 2021, upon consideration of Plaintiff's Second Amended Complaint (Doc. No. 17), Defendants' Third Motion to Dismiss (Doc. No. 18), and Plaintiff's Response in Opposition (Doc. No. 19), and in accordance with the Opinion of the Court issued this day, it is **ORDERED** that the Motion (Doc. No. 18) is **granted in part and denied in part** as follows:

1. Defendant City of Philadelphia's Motion to Dismiss Count IV is **GRANTED**.
2. Defendant City of Philadelphia's Motion to Dismiss Count V is **DENIED**.
3. Defendant City of Philadelphia shall file an Answer to the Second Amended Complaint by **January 14, 2022**.
4. Defendants Kathryn Ott Lovell and Marissa Washington's Motions to Dismiss Counts IV and V are **GRANTED**.
5. All claims remain against Defendant Michael Daniels.

6. If Plaintiff wishes to proceed in her claims against Michael Daniels, she must serve him with the Second Amended Complaint by **January 14, 2022**.¹

BY THE COURT:

/s/ Joel H. Slomsky
JOEL H. SLOMSKY, J.

¹ The docket reflects the Defendant Michael Daniels has not been timely served with the Second Amended Complaint. Pursuant to Federal Rule of Civil Procedure 4(m), the Court must “dismiss the action without prejudice or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). If Plaintiff needs additional time beyond January 14, 2022 to serve Daniels, she must file a motion showing good cause. Id.